

MELINDA HAAG (CABN 132612)  
United States Attorney

DAVID R. CALLAWAY (CABN 121782)  
Chief, Criminal Division

ROBIN L. HARRIS (CABN 123364)  
BENJAMIN KINGSLEY (NYBN 4758389)  
Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
Telephone: (415) 436-7200  
Fax: (415) 436-7234  
robin.harris2@usdoj.gov  
benjamin.kingsley@usdoj.gov

Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. CR 14-0306 WHA
	)	
Plaintiff,	)	
	)	UNITED STATES' RESPONSE TO
v.	)	DEFENDANT'S MOTION TO SET ASIDE THE
	)	INDICTMENT
LUKE D. BRUGNARA,	)	
	)	Hearing Date: April 7, 2015
Defendant.	)	Court: Hon. William Alsup

Defendant has, once again, moved to dismiss (or "set aside") the indictment in this case based on alleged misrepresentations to the grand jury by Federal Bureau of Investigation Special Agent Jeremy Desor. Dkt. 309. The motion should be denied, for three reasons.

First, defense counsel filed this same motion against the prior Superseding Indictment. Dkt. 297. Since then, the pending Second Superseding Indictment was returned by a different grand jury than that which returned the initial Indictment and prior Superseding Indictment. The original motion, Dkt. 297, challenged testimony that was offered to a grand jury that is no longer empaneled and which did not return the pending Second Superseding Indictment. The existing charges are thus supported by new testimony, before a new grand jury. Defendant's motion attacks testimony that did not support the

United States' Response to Defendant's Motion to Set Aside the Indictment;  
CR 14-0306 WHA

Third, for the reasons stated in the government's prior opposition, Dkt. 309 at 2–8, even if defendant had actually filed a proper motion supported by actual evidence challenging relevant testimony given to a grand jury that had returned the pending indictment, it should be denied on the merits. Special Agent Desor's testimony was wholly truthful.

MELINDA HAAG  
United States Attorney

/s/  
 \_\_\_\_\_  
 ROBIN L. HARRIS  
 BENJAMIN KINGSLEY  
 Assistant United States Attorneys